United Nations S/2016/698

Security Council

Distr.: General
10 August 2016

Original: English

Letter dated 9 August 2016 from the Chargé d'affaires a.i. of the Permanent Mission of South Sudan to the United Nations addressed to the President of the Security Council

On behalf of the Transitional Government of National Unity, I have the honour to forward the response to the draft mandate renewal for the United Nations Mission in South Sudan that was circulated on 7 August 2016.

I would be grateful if you would kindly circulate the response among the members of the Security Council and issue it as a document of the Council.

(*Signed*) Joseph Moum **Malok**
Chargé d'affaires a.i.
Deputy Permanent Representative

16-13885 (E) 120816

Please recycle

Annex to the letter dated 9 August 2016 from the Chargé d'affaires a.i. of the Permanent Mission of South Sudan to the United Nations addressed to the President of the Security Council

Republic of South Sudan

Ministry of Cabinet Affairs
Office of the Minister

Response of the Transitional Government of National Unity to the draft mandate renewal for the United Nations Mission in South Sudan circulated on 7August 2016

The Transitional Government of National Unity,

Notes with anxiety and serious concern the contents and context of the draft mandate renewal for the United Nations Mission in South Sudan (UNMISS) advanced by the penholder, the United States of America, and circulated on 7 August 2016, in preparation for discussion by the Security Council, and decides to respond in view of its negative implications in the Republic of South Sudan,

While concurring with the penholder, the United States, on the repercussions of the fighting that took place in Juba on 8 July 2016, including on the political, security, economic and humanitarian situation in the Republic of South Sudan, the Transitional Government of National Unity recalls its responses to the communiqués of the Council of Ministers of the Intergovernmental Authority on Development (IGAD) of 11 July 2016 and of the IGAD Plus Heads of State and Government of 29 July 2016, respectively, on the situation in the Republic of South Sudan following the unfortunate eruption of fighting in Juba on 8 July 2016,

Cognizant of the urgent need to expeditiously take measures to address the repercussions outlined above in consultation and collaboration with IGAD, the African Union, UNMISS and the United Nations, and therefore welcoming the proposition that the Joint Monitoring and Evaluating Commission, IGAD, UNMISS, the Ceasefire and Transitional Security Arrangements Monitoring Mechanism and the parties to the Agreement conduct a permanent ceasefire and transitional security arrangements workshop in Juba on 30 August 2016, and to review the provisions of chapter II on security arrangements of the Agreement on the Resolution of the Conflict in the Republic of South Sudan,

Recognizing its responsibility as the Government of a sovereign United Nations Member State, herein commits to continue discussing with the IGAD authorities the implementation of the communiqué of 5 August 2016 of the Second IGAD Plus Extraordinary Summit on the Situation in the Republic of South Sudan as noted by the penholder, the United States, notwithstanding its reservation on parts therein,

While firmly committed to the implementation of the Agreement on the Resolution of the Conflict in the Republic of South Sudan in letter and spirit, and reaffirming its resolve to observe the ceasefire declared by the President of the Republic on 11 July 2016, the decrees issued as well as orders directing the commanders of the Sudanese People's Liberation Army and the other organized

forces in the Republic of South Sudan to protect civilians and their properties, now expresses its disappointment and decides to submit its views as follows:

1. Makes the general observation that the draft UNMISS mandate renewal of the penholder, the United States, is intended to undercut the provisions contained in the IGAD Plus Heads of State and Government communiqué of 5 August 2016 and undermine IGAD as a regional authority;

2. The draft UNMISS mandate renewal of the penholder, the United States, was generated on 7 August 2016, just two days after the Second IGAD Plus Extraordinary Summit, in total rejection of provision No. 20 of the IGAD Plus Heads of State and Government communiqué of 5 August 2016, which requests the Chairperson of the African Union Commission to urgently transmit the said communiqué to the Secretary-General, who will, in turn, relay the same to the Security Council. The Transitional Government of National Unity interprets this hasty intervention to mean that the penholder disagrees with the decision of the IGAD Plus Heads of State and Government, with a view to influencing the decision of the Security Council on the communiqué in favour of its earlier unrealistic and unfair proposal, in total disregard of IGAD as a regional authority;

3. Underscores statements cited below in the draft UNMISS mandate renewal of the penholder, the United States, which seriously undermines the sovereignty of the Republic of South Sudan as a United Nations Member State, and that the Transitional Government strongly objects to these propositions as follows:

(a) Provision No. 3 of the draft UNMISS mandate renewal states that a workshop is to be held in Juba to determine by 31 August 2016 the maximum number, type and armaments of security forces to remain in Juba and to assist in executing and verifying the redeployment of those forces and armaments to agreed locations by 15 September 2016. This provision is uncalled for because it is adequately covered in the IGAD Plus communiqué of 5 August 2016 and the designation of specific dates to accomplish it effectively undermines the agreement between the Transitional Government and IGAD Plus on the same issue;

(b) Provision 4 authorizes UNMISS to use all necessary means to carry out its tasks, which read together with the substance of provision No. 5, stresses that such actions include, but are not limited to, defending the protection of civilian sites, establishing areas around the sites that are not used for hostile purposes by any forces and addressing threats to the sites. This provision obviously diminishes the sovereign responsibility of government security agents. Furthermore, it must be noted that the UNMISS Tongpiny site is in the proximity of Juba International Airport and could be determined under this provision to constitute part of the areas mentioned above. The Transitional Government will never entertain any proposal that compromises its authority for control over Juba International Airport and, in this connection, expresses its desire to relocate UNMISS from Tongpiny to its Jebel site to ensure the Transitional Government's control over Juba International Airport;

(c) Provision No. 7 states as follows:

(i) Authorizes the Regional Protection Force to use all necessary means, including undertaking robust and active steps and engaging in direct operations where necessary, to accomplish the Regional Protection Force's mandate. This implies that the Regional Protection Force can engage in combat in the sovereign territory of the Republic of South Sudan, an act that

will further complicate the security of the country and exacerbate the suffering of the people of South Sudan;

(ii) Facilitate the conditions for safe and free movement into, out of, and around Juba, including through protecting the means of ingress and egress from the city and major lines of communication and transport within Juba. This again means that the Transitional Government will in effect surrender its responsibility of control over Juba as the capital of the Republic of South Sudan;

(iii) Protect the airport to ensure the airport remains operational, and protect key facilities in Juba essential to the well-being of the people of Juba. Giving the Special Representative of the Secretary-General such powers implies that the Special Representative shall govern the Republic of South Sudan and is hence the de facto President of the Republic of South Sudan;

(d) Provision No. 8 consists of undisguised threats such as that further potential action shall be taken, including appropriate additions to the mandate of the Regional Protection Force, depending on the results of the consultations;

4. Expresses alarm and apprehension regarding the elaborate request that the Secretary-General report and make open-ended decisions, which decisions shall form the basis for further Security Council action(s) on the Transitional Government of National Unity and/or the Republic of South Sudan, and emphasizes the following:

(a) The Secretary-General has constantly advanced negative views against the Government of the Republic of South Sudan and its leadership, including his recent intrusion in the twenty-seventh African Union Summit, in Kigali, with the obvious intention of influencing the African Union's decisions in favour of his "regime change strategy". The Transitional Government demands that reports on the situation in the Republic of South Sudan be generated and verified by a neutral authority;

(b) Determines that the overall intention of provisions 13, 14, 15 and 16 in the draft mandate renewal of the penholder, the United States, is to find ways and means of justifying its long-standing intention to press the Secretary-General and others within the United Nations system and its partners to fulfil the recommendations in annex 1, which include the imposition of an arms embargo on South Sudan, equating the Government of South Sudan with a rebel movement, and the desire to impose sanctions on the leaders of South Sudan;

(c) The Transitional Government calls upon the other Security Council Member States to judge the Republic of South Sudan objectively and acknowledge its sincere commitment to the implementation of the Agreement on the Resolution of the Conflict in South Sudan, and recognizes the excesses of the former First Vice-President that led to the recent eruption of fighting on 8 July 2016;

5. The Transitional Government clearly understands the intentions of the options outlined in annex 1, invoking Chapter VII of the Charter of the United Nations, and points out that these are designed to:

(a) Further weaken the security capacity of the Republic of South Sudan;

(b) Strengthen foreign forces under UNMISS and the added Regional Protection Force in preparation for an invasion of South Sudan and its relegation to the status of a United Nations protectorate;

6. Provision 2, in relation to compliance of the Transitional Government with the Status of Forces Agreement: The Transitional Government recognizes its obligations set out in the Status of Forces Agreement and admits some irregularities being committed by individuals, who have not been well-trained in the field of international law. The Transitional Government is exerting serious efforts to improve its primary duties in protecting UNMISS personnel, foreign diplomats and all its foreign guests by conducting regular informative workshops, seminars and training courses for law enforcement agencies in the fields of privileges and immunities, human rights, international humanitarian law and other related international laws and conventions. In this regard, the Transitional Government welcomes dialogue with UNMISS and the international community to support the Government in this important endeavour;

7. In particular, the Transitional Government is aware of the repeated complaints about the full enjoyment by UNMISS of unrestricted freedom of movement as stipulated in paragraph 12 of section 4, and thus commits to continue improving on this shortcoming. While acknowledging the challenge, the Transitional Government calls upon UNMISS to:

(a) Help in the mobilization of resources and assist the Government of the Republic of South Sudan in improving infrastructures and implementing quick-impact projects in areas of high need;

(b) Urge the Special Representative of the Secretary-General to carry out her obligations under the Status of Forces Agreement, to ensure the observance and implementation of paragraph 5 of section 4 whereby "UNMISS and its members shall refrain from any action or activity incompatible with the impartial and international nature of their duties or inconsistent with the spirit of the Status of Forces Agreement, and that UNMISS and its members shall respect all local laws and regulations", to ensure the sovereignty of the State;

(c) Cooperate with the Transitional Government in order to fulfil the provision for UNMISS to enjoy the privilege of full unrestricted freedom of movement granted to UNMISS through coordination between the Government of the Republic of South Sudan and UNMISS, especially when UNMISS personnel are moving on land, as well as to coordinate with the South Sudan Civil Aviation when moving by air. This is in order to ensure the safety and security of UNMISS personnel and to avoid a reoccurrence of the unfortunate incident of the shooting down of an UNMISS helicopter on 21 December 2012;

(d) Implement the provisions of paragraphs 18, 23 and 24 of section 5, i.e. to render services to South Sudan in the field of transmission and distribution of electricity and cooperation in matters concerning sanitation and health, particularly with respect to the control of communicable diseases and the recruitment of qualified local staff. The procedures for recruiting national staff should comply with the national labour laws and regulations of the Republic of South Sudan.